

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

**BRAINTREE LABORATORIES, INC.,
et al.,**

Plaintiff,

v.

LUPIN LIMITED, et al.,

Defendants.

Civil No. 23-2853 (CPO/EAP)

SCHEDULING ORDER

This Scheduling Order confirms the directives given to counsel at the initial scheduling conference held pursuant to Federal Rule of Civil Procedure 16 on **August 31, 2023**; and the Court noting the following appearances: **Keith J. Miller, Esquire; Christopher R. Noyes, Esquire; Lauren E. Matlock, Esquire; and Colleen M. McCullough, Esquire**, appearing on behalf of Plaintiffs; and **James S. Richter, Esquire; William R. Zimmerman, Esquire; and Andrea Cheek, Esquire**, appearing on behalf of Defendants; and the Court having received and considered the parties' proposed schedule contained in their joint discovery plan; and for good cause shown;

IT IS this **31st** day of **August 2023**, hereby **ORDERED**:

1. Plaintiffs shall serve a Disclosure of Asserted Claims no later than **September 6, 2023**.
2. The parties shall submit an agreed-upon proposed ESI Order no later than **September 6, 2023**.
3. The parties shall submit an agreed-upon proposed Discovery Confidentiality Order to the Court pursuant to L. Pat. R. 2.2 no later than **September 13, 2023**.
4. Defendants shall serve its Invalidity and Non-Infringement Contentions no later than **October 20, 2023**.
5. Plaintiffs shall serve their responses to Defendants' Invalidity and Non-Infringement Contentions no later than **December 20, 2023**.
6. The parties shall exchange proposed terms for construction no later than **January 12, 2023**.

7. The parties shall exchange proposed claim constructions and intrinsic and extrinsic evidence no later than **February 2, 2024**.

8. The parties shall exchange rebuttal intrinsic and extrinsic evidence no later than **February 16, 2024**.

9. Substantial completion of document production shall be due no later than **March 15, 2024**.

10. The parties shall submit the joint claim construction and prehearing statement no later than **March 22, 2024**.

11. The time within which to file a motion to amend the pleadings or to join new parties will expire on **April 12, 2024**. Any motion to amend or supplement shall attach a proposed amended pleading and delineate how the proposed amended pleading differs from the pleading which it proposes to amend by either bracketing or striking through materials to be deleted and/or underlining additional materials. *See* L. Civ. R. 15.1(a)(2).

12. Fact discovery relating to claim construction shall be concluded no later than **April 22, 2024**.

13. The parties shall serve and file their opening *Markman* briefs no later than **May 6, 2024**.

14. Expert discovery relating to claim construction shall be concluded no later than **June 5, 2024**.

15. The parties shall serve and file their responsive *Markman* briefs no later than **July 8, 2024**.

16. The parties shall confer and submit a proposed schedule for the *Markman* hearing no later than **July 22, 2024**.

17. Factual discovery will expire on **September 16, 2024**.

18. Opening expert reports on issues on which each party bears the burden of proof shall be served no later than **October 25, 2024**.

19. Rebuttal expert reports, including Plaintiffs' disclosure of evidence of objective indicia of nonobviousness, shall be served no later than **December 6, 2024**.

20. Reply expert reports, including Defendant's response to any evidence of objective indicia of nonobviousness, shall be served no later than **January 10, 2025**.

21. Depositions of expert witnesses shall be concluded by **February 14, 2025**.

22. Opening Daubert and dispositive motion briefs shall be due no later than **February 26, 2025**. Responsive Daubert and dispositive motion briefs shall be due on **March 19, 2025**. Reply Daubert and dispositive motion briefs shall be due no later than **April 2, 2025**.

23. The Court will conduct a telephone status conference on **November 6, 2023, at 11:30 a.m.** Counsel shall dial **1-856-210-8988, access code 951806690#** to connect to the call. At least three (3) days prior to the scheduled conference, the parties shall send the Court a letter identifying all discovery disputes, if any exist. No issue will be addressed unless the parties have first conferred pursuant to Local Civil Rule 37.1(a) by speaking in person, by telephone, or by video conference.

24. Any application for an extension of time beyond the deadlines set herein shall be made prior to expiration of the period sought to be extended and shall disclose in the application all such extensions previously obtained, the precise reasons necessitating the application showing good cause under FED. R. CIV. P. 16(b), and whether adversary counsel consent to the application. The scheduling deadlines set herein will not be extended unless good cause is shown. All applications regarding motions returnable before a District Judge shall be presented to the District Judge.

**THE FAILURE OF A PARTY OR ATTORNEY TO OBEY THIS ORDER MAY
RESULT IN IMPOSITION OF SANCTIONS UNDER FED. R. CIV. P. 16(f).**

s/ Elizabeth A. Pascal
ELIZABETH A. PASCAL
United States Magistrate Judge

cc: Hon. Christine P. O'Hearn, U.S.D.J.